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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,798	02/09/2004	Joseph M. Koenig JR.	TRI4546P0180US	9069
32116 7590 06/30/2008 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			EXAMINER PLUMMER, ELIZABETH A	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 06/30/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,798	<b>Applicant(s)</b> KOENIG ET AL.	
	<b>Examiner</b> ELIZABETH A. PLUMMER	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 2, 3-13, and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's amendments and arguments received 03/12/2008 have entered and considered. Claim 1 has been canceled. An examination of pending claims 2-16 is herein presented.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schiedegger et al. (US Patent 6,212,835).

a. Regarding claim 2, Schiedegger et al. discloses a crown molding member (20), which is useful and capable of trimming a corner defined by where a vertical wall and a horizontal ceiling meet, the crown molding member (20) having a planar portion (80) (Fig. 7,7A), which can extend along a horizontal ceiling when the crown molding member is installed in a first mode and which can extend along the vertical wall when the crown molding member is installed in a second mode, the planar portion (80) having a proximal edge (edge closer to 78) and a distal edge (edge closer to 68), which is spaced from the proximal edge of the planar portion (Fig. 7,7A), the crown molding member (20) having an intermediate portion (extending from planar portion 80 to flange 74), which adjoins the distal edge of the planar portion at a distal edge of the intermediate

portion (Fig. 7,7A), the intermediate portion having a proximal edge (adjacent 74), which is spaced from the distal edge of the intermediate portion (Fig. 7,7A), the crown molding member having a mounting flange (74), which adjoins the proximal edge of the intermediate portion at an the mounting flange (Fig. 7,7A), which can extend along a vertical wall which the crown molding member is installed in the first mode and which extends along a horizontal ceiling when the crown molding is installed in the second mode, wherein the planar portion (80) extends from the distal edge of the intermediate portion toward the corner with the crown member installed in either the first or second mode , the crown molding member having an additional flange (by 76), which adjoins the proximal edge of the planar portion at an adjoining edge of the additional flange (Fig. 7,7A), which can extend along the vertical wall, toward the mounting flange, when the crown molding member is installed in the first mode and which can extend along the horizontal ceiling, toward the mounting flange, when the crown molding member is installed in the second mode.

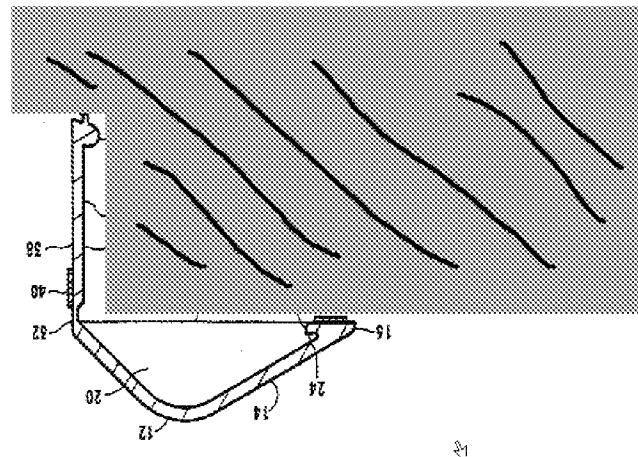
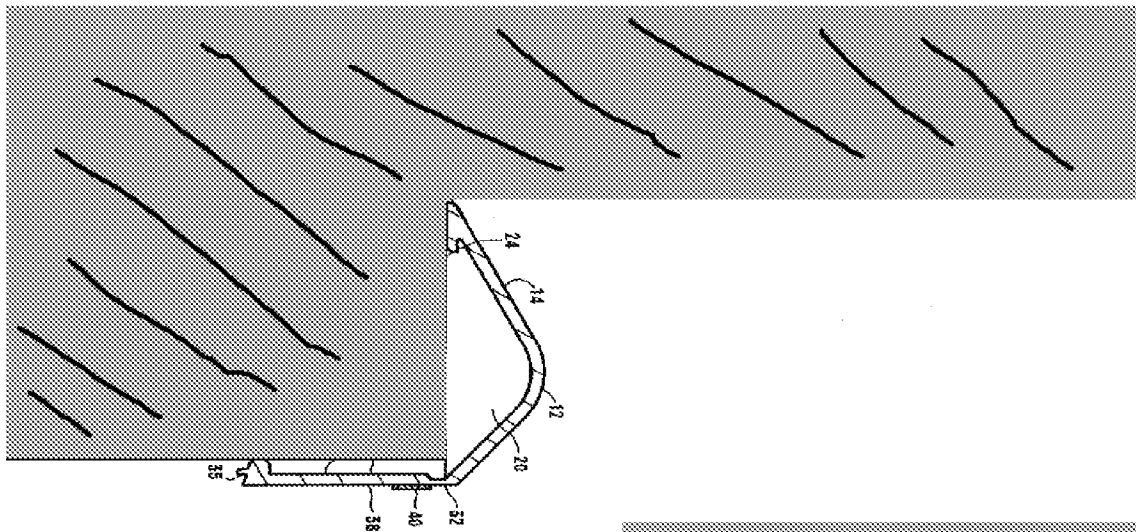
b. Regarding claim 7, the proximal edge of the planar portion (80) can be proximal to the vertical wall when the crown molding member is installed in the first mode and wherein the proximal edge of the planar portion can be proximal to the horizontal ceiling when the crown molding member is installed in the second mode.

2. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Soyka, Jr. et al. (US Patent 5,560,175). Regarding claim 12, Soyka Jr. et al. discloses a crown

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molding member (10), which can be used to trim a corner defined by where a vertical wall and a horizontal ceiling meet, the crown molding member having a planar portion (38), which can extend along a horizontal ceiling when the crown molding member is installed in a first mode (for example, when opened as in Fig. 2 and rotated 90 degrees counterclockwise, the molding can be placed on a suspension ceiling with panels and against a vertical wall) and which can extend along a vertical wall when the crown molding member is installed in a second mode (for example, when opened as in Fig. 2 and rotated 90 degrees the molding can be placed against a vertical wall in between two ceiling sections of different heights), the planar portion having a proximal edge (by 34), the planar portion having a distal edge (by 32) which is spaced from the proximal edge of the planar portion, the crown molding member having an intermediate portion (from 32 to 16), which adjoins the distal edge of the planar portion at a distal edge of the intermediate portion (Fig. 2), the intermediate portion having a proximal edge which is spaced from the distal edge of the intermediate portion (Fig. 2), the crown molding member having a mounting flange (by 28), which can extend along the vertical wall when the crown molding member is installed in the first mode and which can extend along the horizontal ceiling when the crown molding member is installed in the second mode, which generally has a uniform thickness except that the crown molding member is thinner where the distal edge of the intermediate portion adjoins the distal edge of the planar portion (at 32) (Fig. 2), whereby to form a hinge where the crown molding is thinner (Fig. 2,3) (See illustrations of the subcombination installed in the first and second modes below).

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### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 4-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiedegger et al. (US Patent 6,212,835) in view of Keesee (US Patent 3,201,901).

a. Regarding claim 4, Schiedegger et al. discloses the invention as claimed except for the mounting flange including an array of apertures. However, it is notoriously well known in the art that moldings can have an array of apertures on mounting flanges. For example, Keesee teaches a crown molding (Fig. 6) with mounting flanges (17) having an array of apertures (19) in order to more securely fastener the crown molding to the wall. It would have been obvious to one of ordinary skill at the time the invention was made to modify Schiedegger et al. to include an array of apertures on the mounting flange, such as taught by Keesee, in order to more securely attach the molding to the wall or ceiling.

b. Regarding claims 5 and 6, Keesee further teaches that dry-wall finishing material (30) is applied to the mounting flange (column 3, lines 1-5), inherently having some of the applied material press through at least some of the apertures. The material can be applied in either mode.

c. Regarding claim 8, the planar portion can be attached to the ceiling.

d. Regarding claim 9, the mounting flange can be attached to the vertical wall by means besides applied material, such as by a mechanical fastener (36).

e. Regarding claim 10, the planar portion can be attached to the vertical wall.

f. Regarding claim 11, the mounting flange can be attached to the horizontal ceiling by means besides the applied material, such as by a mechanical fastener (36).

5. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soyka, Jr. et al. (US Patent 5,560,175) in view of Schiedegger et al. (US Patent 6,212,835). Regarding claims 13 and 15, Soyka, Jr. et al. discloses an invention capable of being attached to a horizontal ceiling or a vertical wall. Soyka, Jr. et al. does not disclose that the planar portion is attached by mechanical fasteners. However, it is notoriously well known in the art that mechanical fasteners can be used to attach crown moldings to different fixtures. For example, Schiedegger et al. teaches a crown molding (520) comprising a planar portion (561) and an intermediate portion (Fig. 48, 51) wherein the planar portion is attached to a fixture via mechanical fasteners (column 20, lines 31-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Soyka, Jr. et al. to use mechanical fasteners, such as taught by Schiedegger et al. in order to more securely fasten the crown molding.

***Allowable Subject Matter***

6. Claim 3 is allowed.

7. Claim 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



***Response to Arguments***

8. Applicant's arguments filed 03/12/2008 have been fully considered but they are not persuasive. Regarding applicant's argument that the molding member of Schiedegger is not shown as a crown molding, applicant in the arguments states that the invention is drawn to a subcombination; therefore, the subcombination does not actually have to be attached to a vertical/horizontal wall or ceiling, but instead must be inherently capable of being used in combination with a vertical/horizontal wall or ceiling. Currently, the molding member of Schiedegger is inherently capable of being a crown molding. Regarding applicant's arguments that the member (20) cannot be assembled as claimed, the materials used would have enough flexibility in order to be installed against a vertical wall or ceiling. Regarding applicant's arguments that flange (74) is decorative, the flange (74) further extends inward of the molding to provide a mounting means (76). Regarding applicant's argument that it is completely contrary to the express objects of Schiedegger to use nails, threaded fasteners or like fastening elements, Schiedegger, while seeking to minimize the use of penetrating fasteners, still recognizes that there are embodiments in which they can be employed. For example, in Fig. 8 of Schiedegger, Schiedegger illustrates an example of using a nail (104) directly in a mounting flange of a molding. Regarding applicant's request for a visual illustration of Sokya, Jr. et al, one is provided in the above rejection solely for clarification purposes. As illustrated above, the molding member is capable of being used in an opening position.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633

/E. A. P./  
Examiner, Art Unit 3635